

CRM-M-17305-2022
Date of decision 16.11.2022

BALJINDER SINGH @ KULDEEP

...PETITIONER

Verses

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Kanishth Generiwala, Advocate with
Ms. Ananya Bhardwaj, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Aag, Haryana.

JASGURPREET SINGH PURI, J (Oral):

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.169 dated 09.04.2022, under Section 17 of NDPS Act, registered at Police Station Sadar Dabwali, District Sirsa.

It has been submitted by the learned counsel for the petitioner that in the present case the name of the petitioner was nominated on the basis of disclosure statement made by the other co-accused from whom there was recovery of 508 grams of opium which is not a commercial quantity under NDPS Act. He further submitted that even as per the affidavit filed by the State it shows that the petitioner is not involved in any other case nor it is so mentioned in the affidavit that there is any apprehension in the mind of the police that in case the petitioner is granted anticipatory bail then he may abscond or influence the witnesses. He

submitted that this Court has granted interim bail to the petitioner on 16.05.2022 and in pursuance of the aforesaid order, the petitioner has joined the investigation and has cooperated with the investigation. He further submitted that since the alleged quantity recovered from the co-accused does not fall in the category of commercial quantity then the bar contained under Section 37 of NDPS Act will not apply in the present case. Therefore, he has prayed that the interim bail granted to the petitioner may be confirmed.

Mr. Ranvir Singh Arya, learned Addl. Advocate General, Haryana on instructions from ASI Madan Lal, has stated, that the petitioner, in pursuance of the aforesaid order dated 16.05.2022 has already joined investigation and has cooperated with the investigation process and that he is not required for custodial interrogation.

I have heard the learned counsel for the parties.

It is a case where the petitioner was nominated on the basis of the disclosure statement of the co-accused from whom there was recovery of opium which does not fall in the category of commercial quantity, and therefore, the bar contained under Section 37 of the NDPS Act will not apply in the present case. The petitioner is not a habitual offender and is not involved in any other case.

In view of the specific stand taken by the learned State Counsel, the present petition is allowed and the order dated 16.05.2022 is hereby made absolute.

(JASGURPREET SINGH PURI)
JUDGE

16.11.2022
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No